

REMARKS

Pending Claims:

Claims 1-47 are currently pending in the present application. Reconsideration of claims 1-47 in light of the following arguments is respectfully requested.

Allowable Subject Matter:

The Applicant acknowledges with appreciation the Examiner's statement made in paragraphs 11-12 of the Office Action dated May 18, 2004 that claims 14-15, 29, 32-33, and 46 are allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Provisional Non-Statutory Double Patenting Rejection

The Examiner has provisionally rejected claims 1-47 under the judicially created doctrine of double patenting over claims 1-47 of copending Patent Application Serial No. 107088282. The Applicant believes that the Examiner is referring to U.S. Patent Application Serial No. 10/708,282, which is identical to the pending application. The Applicant submits that a U.S. PTO computer server malfunction caused the present application to be submitted twice. The second submission was U.S. Patent Application Serial No. 10/708,282. The filing fee has not been paid for U.S. Patent Application Serial No. 10/708,282. A Notice that U.S. Patent Application Serial No. 10/708,282 is incomplete (because the filing fee was not paid) was mailed on May 14, 2005. The Applicant does not intend to respond to this notice and, therefore, will let U.S. Patent Application Serial No. 10/708,282 go abandon on November 14, 2005.

Therefore, the Applicant believes that it is not necessary to file a Terminal Disclaimer in compliance with 37 CFR 1.321(c) because U.S. Patent Application Serial No. 10/708,282 will not be a co-pending patent application after November 14, 2005.

Objections to the Claims

Claim 30 has been objected to because the Office Action states that the term “quasi-steady state” is not defined in the body of the specification. Paragraph 53 of the present specification states that “the plasma can be substantially in a steady state or a quasi-steady state condition corresponding to the current-voltage characteristic 152 of FIG. 2 during the second low-power stage 272.” The second low-power stage 272 shown in FIG. 4 is a stage that exhibits a slowly changing discharge voltage. The Applicant submits that the term “quasi-steady state,” as used in the present application, means a condition that is slowly changing as a function of time.

Thus, the Applicant submits that the description in at least paragraph 53 indicates that the term “quasi-steady state” means a condition that is slowly changing as a function of time. Therefore, the Applicant requests reconsideration of the objection to claim 30.

Rejections under 35 U.S.C. §102(e):

Claims 1-5, 7-8, 11-13, 18-22, 24-28, 30, 34-36, 38-39, 41-45, and 47 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication Number 2004009441 to Chistyakov. U.S. Patent Application Publication Number 2004009441 is now U.S. Patent No. 6,896,773 B2. There are two pending continuation applications that claim priority to U.S. Patent No. 6,896,773 B2. These patent applications are U.S. Patent Application Serial Number 11/091,814, filed on March 28, 2005 and U.S. Patent Application Serial Number 11/183,463, filed on July 18, 2005.

The sole inventor of U.S. Patent No. 6,896,773 B2 is Dr. Roman Chistyakov, who is also the sole inventor of the present application. U.S. Patent No. 6,896,773 B2 is assigned to ZOND, Inc., which is the assignee of the present application. The assignment for U.S. Patent No. 6,896,773 B2 is recorded at Reel 013274 and Frame 0544. The Assignment for the present application is recorded at Reel 014553 and Frame 0543.

The Applicant respectfully traverses the rejection under 35 U.S.C. §102(e) and requests reconsideration because the Applicant believes that the rejection is improper. The relevant parts of 35 U.S.C. §102(e) state that a person shall be entitled to a patent unless the invention was

described in (1) an application for patent, published under section 122(b), by another filed in the U.S. before the invention by the application for patent or (2) a patent granted on an application for patent by another filed in the U.S. before the invention by the applicant for patent. U.S. Patent No. 6,896,773 B2 was filed by Dr. Roman Chistyakov who is the sole invention of the present application.

The Applicant submits that the subject matter of claims 1-5, 7-8, 11-13, 18-22, 24-28, 30, 34-36, 38-39, 41-45, and 47 is not described in U.S. Patent Application Publication Number 2004009441 by another as required by 35 U.S.C. §102(e) because the sole inventor of U.S. Patent No. 6,896,773 B2 and the sole inventor of the present application are the same person. Similarly, the Applicant submits that the subject matter of claims 1-5, 7-8, 11-13, 18-22, 24-28, 30, 34-36, 38-39, 41-45, and 47 is not described in U.S. Patent No. 6,896,773 B2 as required by 35 U.S.C. §102(e) because the sole inventor of U.S. Patent No. 6,896,773 B2 and the sole inventor of the present application are the same person.

Thus, the Applicant believes that the rejection under 35 U.S.C. §102(e) is improper and respectfully and requests reconsideration. Therefore, the Applicant submits that claims 1-5, 7-8, 11-13, 18-22, 24-28, 30, 34-36, 38-39, 41-45, and 47 are allowable under 35 U.S.C. §102(e).

Rejections under 35 U.S.C. §103(a):

Claim 6 was rejected as being unpatentable over U.S. Patent Application Publication Number 2004009441 to Chistyakov in view of U.S. Patent Application Publication Number 20040222745 to Chistyakov. The Applicant submits that independent claim 1 is not anticipated under 35 U.S.C. §102(e) as described herein and is allowable over the prior art of record. Therefore, the Applicant submits that dependent claim 6 is allowable as depending from an allowable base claim.

Claims 9 and 31 were rejected as being unpatentable over U.S. Patent Application Publication Number 2004009441 to Chistyakov in view of U.S. Patent No. 6,296,742. The Applicant submits that independent claims 1 and 21 are not anticipated under 35 U.S.C. §102(e) as described herein and are allowable over the prior art of record. Therefore, the Applicant submits that dependent claims 9 and 31 are allowable as depending from allowable base claims.

Claims 10, 16-17, and 37 were rejected as being unpatentable over U.S. Patent Application Publication Number 2004009441 to Chistyakov. The Applicant submits that independent claims 1 and 21 are not anticipated under 35 U.S.C. §102(e) as described herein and are allowable over the prior art of record. Therefore, the Applicant submits that dependent claims 10, 16-17, and 37 are allowable as depending from allowable base claims.

Claims 23 and 40 were rejected as being unpatentable over U.S. Patent Application Publication Number 2004009441 to Chistyakov in view of U.S. Patent No. 6,413,382 to Wang. Applicant submits that independent claims 1 and 38 are not anticipated under 35 U.S.C. §102(e) as described herein and are allowable over the prior art of record. Therefore, the Applicant submits that dependent claims 23 and 40 are allowable as depending from allowable base claims.

CONCLUSION

Reconsideration of claims 1-47 is respectfully requested.


The Commissioner is hereby authorized to charge any proper fees to Attorney's Deposit Account No. 501211.

If, in the Examiner's opinion, a telephonic interview would expedite prosecution of the present application, the undersigned attorney would welcome the opportunity to discuss any outstanding issues, and to work with the Examiner toward placing the application in condition for allowance.

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Respectfully submitted,


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